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| EXAMINER | |
|---|---|
| LIVEDALEN, BRIAN J | |

| ART UNIT | PAPER NUMBER |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/573,376 | FISCHEREDER, BERNHARD | |
| | Examiner | Art Unit | |
| | Brian J. Livedalen | 2878 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *29 November 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6,10,11 and 16-21* is/are rejected.

7)☒ Claim(s) *7-9,12-15 and 22-26* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/ are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

This action is in response to the amendment filed 11/29/2007. Claims 1-26 are pending.

### *Claim Objections*

Claim 1 recites the limitation "the beam emitter and/or receiver." There is insufficient antecedent basis for this limitation in the claim.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6, 10, 11, and 16-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Kilian et al. (2004/0020255).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in

the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

In regard to claim 1, Kilian discloses (fig. 2) a safety device comprising a beam emitting and beam receiving device (47) , for a manufacturing machine, with at least one retaining mechanism (57) designed in the form of an adjusting mechanism (60) for the safety device on a press beam which can be fitted with bending tools in a tool mounting device (16), wherein the adjusting mechanism holds the beam emitter and/or beam receiver in a guiding arrangement that allows the beam emitter and/or beam receiver to be adjusted relative to the press beam along a first direction (61) running perpendicular to a standing surface between at least one working position and a park position, wherein the park position is relatively farther in the first direction away from a working plane of the manufacturing machine than is the working position, (page 2, paragraphs 0026-0027), wherein the adjusting mechanism has a guiding and locking device (58, 62) switching a locking element (62) of a locking device between a releasing position that allows the adjustment along the first direction, and a retained position, and the retaining mechanism for the beam emitter and/or the beam receiver automatically switches the locking element to the retaining position and locks the beam emitter and/or beam receiver in the park position fixed in relation to the press beam upon a linear displacement of the beam emitter and/or/ beam receiver in the direction away from the working plane to or past the park position (page 2, paragraph 0026; page 4, claim 11).

In regard to claim 2, Kilian discloses (fig. 2) that the guiding and locking device is arranged on the adjustable press beam in a stationary manner (page 2, paragraph 0026).

In regard to claim 3, Kilian discloses (fig. 2) a safety device characterized in that the guiding and locking device is arranged on the retaining mechanism in a stationary manner (page 2, paragraph 0026).

In regard to claim 4, Kilian discloses (fig. 2) a safety device characterized in that the locking element in the guiding and locking device is arranged to be adjustable in a direction running perpendicular to the retaining mechanism (page 2, paragraph 0026).

In regard to claim 5, Kilian discloses (fig. 2) that the locking element is arranged in a guide housing (58) arranged in a bore of a housing of the guiding and locking device (page 2, paragraph 0026).

In regard to claim 6, Kilian discloses (fig. 2) a safety device characterized in that the locking element is adjustably mounted in the guide housing (58) by means of a sliding guide (page 2, paragraph 0026).

In regard to claim 10, Kilian discloses (fig. 2) a safety device characterized in that a guide rail (60) for the guiding and locking device is connected moveably with the press beam (page 2, paragraphs 0026-0027).

In regard to claim 11, Kilian discloses (fig. 1) a safety device characterized in that the guide rail (15) is connected moveably with the retaining mechanism (page 2, paragraphs 0026-0027).

In regard to claim 16, Kilian discloses (fig. 2) that at an end region facing the standing surface on the housing sleeve a support plate aligned parallel to the standing surface is arranged for the beam emitter and/or the beam receiver (page 2, paragraphs 0026-0027).

In regard to claim 17, Kilian discloses (fig. 2) that at an end region facing the standing surface on the housing sleeve a support plate (base of 47) aligned parallel to the standing surface is arranged for the beam emitter and/or the beam receiver.

In regard to claim 18, Kilian discloses a safety device characterized in that in the housing sleeve for the transmission of energy and data, lines are arranged between the beam emitter and/or the beam receiver and an output interface (page 1, paragraph 0001; page 2, paragraphs 0025-0026).

In regard to claim 19, Kilian discloses a safety device characterized in that the lines are laid on a line guiding chain arranged in the housing sleeve (page 1, paragraph 0001; page 2, paragraphs 0025-0026).

In regard to claim 20, Kilian discloses a safety device characterized in that the output interface is line-connected with the machine control system interface (page 1, paragraph 0001; page 2, paragraphs 0025-0026). Note, Kilian inherently discloses the above limitations because it is required to for the system of Kilian to function as disclosed.

In regard to claim 21, Kilian discloses (figs. 2) a safety device characterized in that an adjustment path of the retaining mechanism starting from the park position to position the beam emitter and beam receiver can be adapted to various working

positions by stop means to different heights of the bending tools (page 2, paragraph 0027).

### *Allowable Subject Matter*

Claims 7-9, 12-15 and 22-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Claims 7-9, 12-15 and 22-26 are neither anticipated nor made obvious by the prior art of record.

In regard to claim 7, the prior art of record fails to disclose a safety device as set forth wherein the locking element is pretensioned by means of a spring arrangement acting between the locking element and the guide housing projecting over a side surface of the housing in the direction of a stop and switching means.

In regard to claim 22, the prior art of record fails to disclose a safety device as set forth wherein the locking device is formed by a wedge element mounted adjustably in the guiding and locking device.

### *Response to Arguments*

Applicant's arguments with respect to claims 1-6, 10, 11, and 16-21 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Livedalen whose telephone number is (571) 272-2715. The examiner can normally be reached on 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

THANH X. LUU
PRIMARY EXAMINER

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